

THE CRIMINAL LIABILITY OF LEGAL PERSONS IN THE REPUBLIC OF SLOVENIA

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Abstract

Liability of legal persons for criminal offences has been slowly, but without fail, making its way to the legislations of European countries. Trends of development indicate that the liability of legal persons for criminal offences will have to be regulated by all Member States of the Council of Europe and European Union. Grounds of liability of legal persons yet indicate that it is not a question of strict liability, but rather of a special form of criminal responsibility, adapted to legal persons.

Key words

Slovenia, legal persons, liability, liability of legal persons.

1. INTRODUCTION

The Republic of Slovenia, after becoming in 1991 an independent state, adopted a new penal code (hereinafter PC), which entered into force on the 1st January 1995¹. This code contains also a provision concerning the liability of legal persons for a criminal offence. A liability of legal persons for criminal offences has not been regulated by PC alone, but rather left over to the regulation by a special act. In accordance with Article 33 of PC, this act defines a liability of legal persons for criminal offences, which the perpetrator commits in its name, on its account or in its favour. This act provides for sentences, admonitory sanctions, safety measures and legal consequences of conviction for legal persons. In this act are laid down those criminal offences for which a legal person can be liable and contained special provisions, governing the criminal proceedings against the legal person.

An elaborated Bill on Liability of Legal Person for Criminal Offences² was prepared in Slovenia already in the beginning of 1994, but was contested by the opponents of liability of legal persons for criminal offences, so it unfortunately did not pass successfully through the parliamentary procedure. During the second reading, the National Assembly of the Republic of Slovenia did not adopt the name of the act³, neither a half of articles that made together with the adopted articles, an inseparable unit⁴. In this way, the Bill was so truncated, that the Government as a proposer had no other possibility than to withdraw the Bill from the legislative procedure.

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¹ Official Gazette of RS, no. 63/94, 70/94 (Amendments), 23/99 and 40/2004.

² Poročevalec Državnega zbora Republike Slovenije, Year XX, no. 8/94.

³ Such a situation has not been envisaged in the regulations of the National Assembly of the Republic of Slovenia.

⁴ Explanation of amendments of the Government of the Republic of Slovenia to the Bill on Liability of Legal Persons for Criminal Offences – the third reading, Poročevalec Državnega zbora Republike Slovenije, year XXII, no. 47/96, p. 9.

The Government submitted a new Bill on Liability of Legal Person for Criminal Offences on June 19, 1997. National Assembly of the Republic of Slovenia adopted the Act on Liability of Legal Person for Criminal Offences on its session of July 8, 1999. The Act was published in the Official Gazette of the Republic of Slovenia no. 59/99 and went into force in accordance with Article 44 of the Act ninety days after its publication in the Official Gazette of the Republic of Slovenia.

National Assembly of the Republic of Slovenia adopted on its session of May 20, 2008 the new penal code (hereinafter PC-I) which entered into force on the 1st November 2008. PC-I has brought the number of modifications and represents a radical reform of substantive criminal law in the Republic of Slovenia. With regard to the fact that PC-I constitutes a legal basis for the regulation of liability of legal persons for criminal offences, it was necessary to amend also the act, regulating the liability of legal persons. The Amendment to the Act on Liability of Legal Person for Criminal Offences (hereinafter ALLPCP-B) was adopted by the National Assembly of the Republic of Slovenia on its session of June 17, 2008 and entered into force on the 1st November 2008, the same date as PC-I.

Before presenting provisions of the amended Act on Liability of Legal Person for Criminal Offences, it seems reasonable to have a brief look on views concerning the liability of legal persons in criminal law.

2. VIEWS CONCERNING THE LIABILITY OF LEGAL PERSONS IN CRIMINAL LAW

Recognition of legal personality granted to various associations in the field of civil and commercial law has had an impact on the development of the liability of legal persons in the administrative penal law and later on also in criminal law.

In studying the liability of legal persons beyond the civil law, authors deal with the number of questions, among which are the following ones: is it necessary in order to limit a deviant behaviour of legal persons, to introduce beside individual criminal responsibility of natural persons also a liability of legal persons; what constitutes the grounds for the liability of a legal person in criminal law; are the liability of legal persons for a criminal offence and the criminal responsibility of a natural person in whatever way related⁵. It has nevertheless to be said that the liability of legal persons for different sorts of criminal offences is known practically in all legal systems, although there are important differences in the ways of limiting a deviant behaviour of legal persons⁶.

European legal systems mostly deal with deviant behaviour of legal persons in the frame of administrative penal law, because the principles *nullum crimen nulla poena sine culpa* and

⁵ Oven N.: *Odgovornost pravnih oseb v kazenskem pravu*, Master Thesis, Ljubljana 1997, p. 55.

⁶ Compare to: Barsela, Eliasoff: pp. 249-273; Bencik, Kokavec: pp. 419-428; Braithwaite in Fisse: *Varieties of Responsibility*, pp. 315-343; Bucky: pp. 1095-1184; Collins: pp. 731-744; Cressey: pp. 73-87; Delmas-Marty: pp. 21-25; Drane: pp. 398-421; Fisse in Braithwaite: pp. 468-513; Fredriksen: pp. 299-309; Fucks: pp. 761-775; Heine: pp. 731-759; Kellman: pp. 885-921; Koksikin, Utrianen: pp. 173-188; Kunz: pp. 1187-1195; Lederman: pp. 285-340; Leigh: *The Criminal Liability of Corporations and Other Groups*: pp. 1508-1528; Marek, Kunicka-Mihalska: pp. 331-345; MCChesny in Mueller: pp. 831-847; Nutio: pp. 923-945; Paternoster, Satzman, Waldo, Chiricos: pp. 270-197; Schneider: pp. 128-158; Spinellis: pp. 220-225; Steen-Sundberg: pp. 1163-1185; Šelih: pp. 457-470; Tak, Aler, Wattel: pp. 311-329; Viano: pp. 95-108; Waling et al.: pp. 1065-1099; Wigend: pp. 67-93.

societas delinquere non potest present the main obstacle to the liability of legal persons in the field of criminal law. Yet, even in these systems there are an increasing number of professionals who are in favour of the idea of liability of legal persons and their punishment. On the other hand, the liability of legal persons is far from being strange to systems based on common law. Differences between systems are mainly due to the particularities of systems themselves.

In spite of differences between systems, it is nevertheless common to all of them that they know in one or another form the liability of legal persons for criminal offences. In most systems, a debate is actually focused on the issue, whether a perpetrator of offence can only be a natural person and whether legal persons can also have their own will and can be therefore a subject of liability for criminal offences.

Some legal systems still insist on the argument that only a man as a natural person is capable of expressing his will and provoking the prohibited consequences; for this reason, legal persons cannot be held liable for criminal offences. The majority of legal systems have already conformed to the demand of punishing legal persons alone for criminal offences. In these legal systems, there have been some attempts, made in positive law, to establish conditions for indirect (i. e. derivative) liability of legal persons for criminal offences, which is also a basis for the imposition of criminal sanctions. A ground for the liability of legal persons is still a criminal offence of a natural person, committed in favour of the legal person and on its account. Yet, a small number of legal systems recognise to legal persons the attribute of active subject of a criminal offence with its own will, which is a ground for their direct (autonomous, independent) liability for a criminal offence.

The question, which is also important in connection with the liability of legal persons for criminal offences, is whether the liability of legal persons is merely objective or is it necessary to establish for the liability of a legal person also certain subjective elements. All further theoretical considerations regarding the liability of legal persons for criminal offences namely depend upon the answer to this question.

Although there is an important difference between the grounds of direct and indirect liability of legal persons for criminal offences, they have nevertheless in common the fact that we cannot speak about a collective liability of all members of community for the conduct of one of them. A legal person acts as an autonomous legal subject, since the court will impose a criminal sanction on legal persons themselves and not on their members. It is therefore a matter of an entirely autonomous liability of a legal subject with its proper legal personality, which in no case excludes the individual criminal responsibility of those natural persons who participated in the commission of criminal offence⁷.

Different views on the liability of legal persons are present also in Slovenia. Some of the professionals oppose to this responsibility, while other defend it. Among the strong opponents of a criminal responsibility of legal persons is Professor Ljubo Bavcon, who considers that it is necessary to make a distinction between notions of criminal responsibility and punishability. Criminal responsibility is a common higher concept of sanity and guilt. According to the nature of things, a legal person cannot have a subjective attitude towards a criminal offence. As far as concerns legal persons, we can therefore speak only about punishability and not of a criminal responsibility of legal persons. Punishability is based on a

⁷ Oven N.: Odgovornost pravnih oseb v kazenskem pravu, Master Thesis, Ljubljana 1997, pp. 55-60.

criminal offence, committed by a criminally responsible person as a representative of a legal person. According to the Penal Code (of the Republic of Slovenia), criminal responsibility can be only individual, even in cases when several people commit together a criminal offence.⁸

It is clear that Professor Bavcon proceeds from the classical Savigny's theory on fiction, according to which a legal person does not have its own will and therefore cannot have a guilty mind regarding a criminal offence and its consequences. Professor Bavcon does recognise the punishability of legal persons, yet he does not argue what is a ground of this punishability. A definition, that punishability of legal persons is based on the criminal offence of a criminally responsible person as a representative of the legal person, does not say anything, since the punishability can be based only on responsibility, which in the opinion of Professor Bavcon, cannot be attributed to a legal person as it does not have its own will. Even if we tried to justify the punishability of legal person by the liability of a legal person for the conduct of its representative, the outcome would be nevertheless the same. It is true that a legal person cannot have a guilty mind in classical terms, while a strict liability, according to the Penal Code of the Republic of Slovenia, based on the principle of liability for guilt, cannot be a ground for the imposition of sentence for a criminal offence. CP-I abandoned a notion of criminal responsibility and introduced a notion of guilt, which is based on the liability for guilt.

Among the strongest advocates of the liability of legal persons for criminal offences we should mention Professor Ivan Bele and Professor Mitja Deisinger, who both contributed a lion's share to the formulation of this Bill. Reasons for the introduction of liability of legal persons for criminal offences will be analysed in the presentation of the Act on Liability of Legal Person for Criminal Offences.

3. ACT ON LIABILITY OF LEGAL PERSON FOR CRIMINAL OFFENCES⁹

The act is divided into five sections: fundamental provisions, general provisions, special provisions, procedure, and transitional and final provisions.

The Act on Liability of Legal Person for Criminal Offences – Official Consolidated Text (hereinafter ALLPCO- OCT) has introduced accessory liability of legal persons; in the first article of this Act it is explicitly specified that under conditions pursuant to Article 33 of the Penal Code, not only a perpetrator, but also a legal person shall be liable for a criminal offence. The Amendment to the Act on Liability of Legal Person for Criminal Offences (hereinafter ALLPCO-B) refers in the first article to Article 42 of the PC-1¹⁰ and modifies a text of the first article in the following way: “Under conditions, specified in this Act, pursuant to Article 42 of the PC-1, a legal person shall be criminally responsible for a criminal offence.” Even a provision amended like that, preserves the accessory liability of legal persons, because it is explicitly stipulated in the first paragraph of Article 42 that criminal responsibility shall be established against a legal person for a criminal offence, which was committed by a perpetrator in the name, on behalf of or in favour of the legal person; it is clearly set out in the act, regulating the liability of legal persons for criminal

⁸ Bavcon-Šelih et al.: pp.145-146.

⁹ The Act on Liability of Legal Person for Criminal Offences (Official Consolidated Text), Official Gazette of RS, no. 98/04 and the Amendment to the Act on Liability of Legal Person for Criminal Offences, Official Gazette of RS, no. 65/08.

¹⁰ Penal Code (PC-1), Official Gazette of RS, no. 55/08.

offences, that it is a legal person who shall be liable for this act. A provision, formulated like that, gives more stress to the autonomous (independent) liability of legal persons for criminal offences. Accessory liability of legal person is also evident from provisions, governing the proceedings. The article 27 of ALLPCO-OCT has been amended by ALLPCO- B, completing this article by a paragraph 4, in which it is specified that the court can decide, on the ground of weighty reasons or for the reasons of expediency, to exclude until the end of the main trial the proceedings against the legal person and terminate it separately. In the article 28 of ALLPCO- OCT it is set out that the state prosecutor may decide to not request the initiation of criminal proceedings against the legal person, if the circumstances of the case show that this would not be expedient, because the legal person's participation in the criminal offence was insignificant, because the legal person does not have any property or has so little property that this would not even suffice to cover the costs of the proceedings, because bankruptcy proceedings have been initiated against this legal person, or because the perpetrator of the criminal offence is the sole owner of the legal person against which it would be necessary to initiate proceedings. However, accessory liability of legal persons is not general, but applies only to those criminal offences which are explicitly defined in this Act. Besides, the Act also has to provide for a penalty or for any other criminal sanction which may be imposed on a legal person.

The Article 2 of the Act provides for the possibility of restriction in the liability of legal persons for criminal offences only to a certain type of legal persons. After the model of the French Code Pénal, a liability for a criminal offence is excluded¹¹ for the Republic of Slovenia and local self-governing communities as legal persons.

In Article 3 is regulated a territorial validity of the Act. It is understandable that the Act applies to domestic and foreign legal persons for criminal offences committed on the territory of the Republic of Slovenia. Nevertheless, a question is whether and to what extent this Act can apply to acts committed abroad. Many of foreign countries does not know the institute of liability of legal persons for criminal offences, for this reason the applicability of the Act for offences committed abroad would mean an unjustified infringement upon a foreign repressive authority, which would also undermine the principle *nullum crimen, nulla poena sine lege*. A proposer of this Act has obviously been aware of these problems and limited for this reason the applicability of the Act to criminal offences committed abroad only to cases, when the active and passive subject of a criminal offence are simultaneously subject to domestic legal order. The applicability of the Act for the criminal offences which were committed abroad is set out only to a degree, strictly necessary to prevent the legal person to avoid the liability for a criminal offence by a simple displacement of crime commission to the territory of a foreign country.¹²

The Article 4 deals with the grounds for the liability of a legal person. A legal person shall be liable for a criminal offence committed by the perpetrator in the name of, on behalf of or in favour of the legal person in the following cases:

1. if the committed criminal offence means carrying out an illegal resolution, order or endorsement of its management or supervisory bodies;

¹¹ In the French Code Penal the liability of the State is excluded in Article 121-1.

¹² For more detail, see the explanation to Article 3 of the Bill, Poročevalec Državnega zbora RS, Year XXIII, no. 30/97, p. 28.

2. if its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. if it obtains by a criminal offence an illegally property gain or objects gained through a criminal offence;
4. if its management or supervisory bodies have omitted obligatory supervision of the legality of the actions of employees subordinate to them.

This provision is very important, because it indicates that a legal person shall not be held liable only for a perpetrator's act, but that its liability rests on its own grounds. A legal person is liable due to its own contribution to the prohibited consequence or the maintenance of illegal situation, resulting in a prohibited consequence. Although a legal person cannot actually carry out the acts of natural persons, defined in the penal code as criminal offences, it does not mean that a legal person cannot considerably contribute through its bodies to the commission of a criminal offence. In fact, such acts of a legal person as the abuse of power or omission of necessary supervision represent a ground for the recrimination and for the independent liability. This ground for recrimination indicates that we cannot speak of objective liability, but rather of a special form of criminal responsibility, adjusted to legal persons.

Since a legal person has its own ground of liability, its liability for a criminal offence is accessory and limited. A legal person is liable for its own contribution to a criminal offence; that means that it is not necessary for establishing its liability and punishability that a perpetrator would be guilty too. It is quite enough if a perpetrator's acts objectively constitute elements of a criminal offence, the commission of which has been enabled also by the actions of the legal person's bodies.

The Article 5 of the Act defines the limits of the liability of legal person for a criminal offence. The liability of a legal person does not preclude the criminal responsibility of natural persons or responsible persons for the committed criminal offence. A legal person is liable for a criminal offence also in the case when a perpetrator has not been found guilty or when a criminal offence was committed under the legal person's duress or threats. A legal person can be liable for criminal offences committed out of negligence only under conditions that its management or supervisory bodies have omitted a necessary supervision of the legality of the actions of employees subordinate to them. In this case the legal person may be given a reduced sentence. If a legal person has no other body besides a perpetrator who could lead or supervise the perpetrator, the legal person shall be liable for the committed criminal offence within the limits of the perpetrator's guilt. In such cases the liability of a legal person is accessory in the whole.

In subsequent articles of the first section of the general part, the Act regulates the liability in the case of change in the status of a legal person, particularities of necessity and criminal attempt in connection with the liability of legal persons for criminal offences, collective criminal offence, complicity of legal persons and the general reasons for reducing a sentence or the withdrawal of a sentence.

In the second section of the general part, the Act provides for the sentences and other sanctions for legal persons. The following sentences have been provided for legal persons in

the ALLPCO- OCT: a fine, expropriation of property and winding-up of legal person.¹³ This provision has been amended by ALLPCO-B by adding two accessory sentences: a prohibition to participate in public tenders and prohibition to trade with financial instruments.¹⁴ It is clear from this provision that the Act provides for a legal person three types of sentences of deprivation of property as principal sentences, since it is not possible to punish a legal person by any other type of sentence. Accessory sentences may be imposed by the court for criminal offences against economy and criminal offences of corruption involving officials. By imposing accessory sentences, a court can prohibit a participation in public tenders for the period from three to ten years and trading with financial instruments for the period up to eight years.

Principal sentences, safety measures and legal consequences of conviction do not cover two areas, which could be put to profitable use by legal persons for the commission of criminal offences; they are participation in public tenders and trade with financial instruments. A legislator has estimated that the best way to fill this gap would be the enactment of two new accessory sentences, which would enable a facultative form of sentencing legal persons, besides imposing on them a principal sentence. It is also important that the imposition of accessory sentences is not conditioned by a danger, which is a prerequisite for the imposition of safety measures.

In Article 13 it is stipulated that a fine which may be prescribed, may not be less than 10.000 euro and not more than 1.000.000 euro. In the case of the legal person's criminal offence having caused a damage to another's property, or of the legal person having acquired illegally gained benefit, the highest limit of the fine imposed may be two hundred times the amount of such damage or gain.

Expropriation of property is regulated by Article 14. Half or more of the legal person's property or its entire property may be expropriated. Expropriation of property may be imposed for criminal offences for which a sentence of five years' imprisonment or a heavier sentence is provided for.

Winding-up of a legal person is set out in Article 15. It may be imposed if the activity of the legal person was entirely or predominantly used for the commission of criminal offences. In addition to the winding-up of a legal person, the court may also impose a sentence of expropriation of property. By sentencing a legal person to winding-up, the court shall also propose the initiation of the liquidation proceedings. Creditors may be paid off from the property of the legal person sentenced to winding-up.

Article 16 regulates the fixing of sentence and Article 17 the suspended sentence imposed to a legal person.

In Article 18 it is stipulated that the court may impose for a criminal offence of legal person, in addition to the safety measures of the confiscation of objects pursuant to Article 73 of the PC –I, also a safety measure of the publication of judgement and the prohibition of a specific commercial activity.

¹³ Article 12 of ALLPCO- OCT.

¹⁴ Article 6 of ALLPCO- B.

A safety measure of the publication of judgement shall be imposed by the court in the case when it would be beneficial for the public to be informed of the judgement, and especially if the publication of judgement would contribute to avert danger to life and health of people or to protect safety of traffic or some economic good.¹⁵

A safety measure of prohibition of a specific commercial activity to a legal person is regulated in Article 20. The purpose of this safety measure is prohibiting a legal person from producing certain products or doing business in certain premises, or prohibiting a legal person from involving itself in certain transactions in traffic of goods and services or with other commercial transactions. This measure may be imposed by the court on a legal person, if its further involvement in a given commercial activity would present a danger to life and health of people or be harmful to the commercial and financial business of other legal persons or to the economy, or if a legal person has already been sentenced in the last two years for the same or similar criminal offence. This safety measure may be applied for a term of six months to five years, to run from the time the judgement becomes legally binding.

A legal person can suffer legal consequences of conviction, even if a fine was imposed on it.¹⁶ Legal consequences of conviction which may come into effect for a legal person are the following: 1. prohibition of activity on the basis of licences, authorisations and concessions obtained by state bodies; 2. prohibition of acquisition of licences, authorisations or concessions which are granted by state bodies.¹⁷

Article 22 regulates limitation. Limitation of criminal prosecution of a legal person shall be reckoned with regard to the sentence which may be in accordance with the law imposed on the perpetrator of the criminal offence. In the second paragraph the limitation of the implementation of sentence is set out and in the third paragraph, the limitation of the implementation of a safety measure.

Equally important is Article 23, stipulating to apply to legal persons the respective provisions of the general part of Penal Code, unless provided otherwise in this Act.

In a special part of the Act are defined those criminal offences for which a legal person can be liable and provided sentences for criminal offences. Legal persons may be liable for criminal offences from the special part of PC and respectively PC-I and for other criminal offences, if so provided by the Act. In Article 25 of this Act are listed all criminal offences from the special part of PC and respectively PC-I, for which a legal persons can be held liable.

The section four of the Act regulates particularities of the proceedings against the legal person for the criminal offence which was committed. It is set out in the Act that it is suitable to apply in the proceedings against the legal person the provisions of the law, governing a criminal procedure, even if proceedings have been conducted only against a legal person, unless it is otherwise specified in this Act.¹⁸

¹⁵ Paragraph 1 of Article 19 of ALLPCO- OCT.

¹⁶ Paragraph 2 of Article 99 of PC explicitly stipulates that legal consequences of conviction cannot come into existence incident to the imposition of a fine. Exactly the same provision is provided for in paragraph 2 of Article 78 of PC-I.

¹⁷ Article 21 of ALLPCO- OCT.

¹⁸ Article 42 of this Act.

The Act proceeds from the principle of the unity of procedure. Proceedings against the legal person shall be as a rule initiated and carried out together with proceedings against the perpetrator for the same criminal offence. In unified proceedings, a single charge is laid against the accused legal person and the accused perpetrator, and a single judgement is given. Proceedings against the legal person alone may be only initiated or carried out in the case when it is not possible to initiate or carry out proceedings against the perpetrator for reasons specified by law, or when proceedings have already been carried out against the perpetrator.¹⁹

In contrast to the Code of Criminal Procedure, which has introduced as a basic principle a principle of legality of criminal prosecution, this Act introduces for the prosecution of legal person a principle of expediency. It is stipulated in article 28 of the ALLPCO- OCT that the state prosecutor may decide not to request the initiation of criminal proceedings against the legal person if the circumstances of the case show that this would not be expedient because the legal person's participation in the criminal offence was insignificant, because the legal person does not have any property or has so little property that this would not even suffice to cover the costs of the proceedings, because bankruptcy proceedings have been initiated against the legal person, or because the perpetrator of the criminal offence is the sole owner of the legal person against which it would be necessary to initiate proceedings.

Other provisions are more or less technical and regulate particularities of the proceedings against the legal person (for example, appointment of a legal representative of a legal person, disqualification of a legal representative etc.)

4. CONCLUSION

Liability of legal persons for criminal offences has been slowly, but without fail, making its way to the legislations of European countries. In the Netherlands, the liability of legal persons for criminal offences has been provided for by a special act since 1951 and set out in the penal code since 1976. In the last twenty years, many countries have introduced legal persons into their criminal law, among them the following European countries: Portugal in 1984, Sweden in 1986, Norway in 1991, Island in 1991, France in 1994, Finland in 1995, Denmark in 1996, Belgium and Slovenia in 1999, Hungary in 2001, Switzerland in 2003, Croatia in 2004, and Austria in 2005²⁰. Countries which belong to the common law system, mainly know the liability of legal person for criminal offences in the form of "corporate liability", which is to some extent different from the continental one.

The institution of liability of legal persons for criminal offences has also been recommended by several international legal instruments. The Committee of Ministers of the Council

of Europe has already in 1988 adopted the Recommendation no. R (88) 18 with the title "Liability of Enterprises Having Legal Personality for Offences Committed in the Exercise of Their Activities". In this document, a similar regulation has been recommended as provided for in the presented Act. This general recommendation was followed by the number of

¹⁹ Article 27 of ALLPCO- OCT. This article has been completed by a paragraph 4 of the ALLPCO- B, which specifies that on the ground of weighty reasons or for the reasons of expediency a court can decide to exclude until the end of the main trial the proceedings against the legal person and complete it separately.

²⁰ Deisinger M.: Odgovornost pravnih oseb za kazniva dejanja: p.26 Eidam G.: pp.39-43, 45-46, 48-49 and 53-54.

documents of the Council of Europe, containing a demand to introduce the liability of legal persons for criminal offences.

European Union has a similar attitude towards this problem, stressing in the number of documents a need of enacting the liability of legal persons for criminal offences. In its programme of common action from February 1977, the Council of European Union clearly declared in connection with the fight against a white slave trade and sexual exploitation of children and minors that in cases when these acts have been committed in the name, on behalf of or in favour of a legal person, the latter has also to be liable for these acts. A liability of legal persons for criminal offences is even more precisely specified in the Additional Protocol to the Convention on the Protection of the European Communities' Financial Interests from

July 26, 1995. The entire second section of the Protocol deals with the liability of legal persons for economic criminal offences to the prejudice of the European Union. A content of articles 2, 3, and 4 concerning grounds of liability is practically identical to the Slovene Act on Liability of Legal Persons for Criminal Offences.²¹ Recently, practically all documents of the European Union, dealing with criminal law, contain also a demand upon the liability of legal persons for criminal offences.

Trends of development indicate that the liability of legal persons for criminal offences will have to be regulated by all Member States of the Council of Europe and European Union. Grounds of liability of legal persons yet indicate that it is not a question of strict liability, but rather of a special form of criminal responsibility, adapted to legal persons.

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²¹ Uvodna razložitev predloga zakona, Poročevalec DZ RS, Year XXIII, no. 30/97, pp.21-22.